

## HR 3795

### Over-the-Counter Derivatives Markets Act of 2009

**Congress:** 111 (2009–2011, Ended)

**Chamber:** House

**Policy Area:** Finance and Financial Sector

**Introduced:** Oct 13, 2009

**Current Status:** Ordered to be Reported by Voice Vote.

**Latest Action:** Ordered to be Reported by Voice Vote. (Oct 21, 2009)

**Official Text:** <https://www.congress.gov/bill/111th-congress/house-bill/3795>

## Sponsor

**Name:** Rep. Frank, Barney [D-MA-4]

**Party:** Democratic • **State:** MA • **Chamber:** House

## Cosponsors (1 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Sherman, Brad [D-CA-27]	D · CA		Nov 2, 2009

## Committee Activity

Committee	Chamber	Activity	Date
Agriculture Committee	House	Markup By	Oct 21, 2009
Financial Services Committee	House	Markup By	Oct 15, 2009

## Subjects & Policy Tags

### Policy Area:

Finance and Financial Sector

## Related Bills

No related bills are listed.

Over-the-Counter Derivatives Markets Act of 2009 - Amends the Commodity Exchange Act (CEA) to place specified derivatives, swaps, securities-based swaps, swap dealers, and swap participants under the jurisdiction of a Prudential Regulator, which may be: (1) the Board of Governors of the Federal Reserve System; (2) the Office of the Comptroller of the Currency; and (3) the Federal Deposit Insurance Corporation (FDIC).

Directs the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) to promulgate jointly uniform implementing regulations.

Repeals the exclusion from CFTC regulation of: (1) derivative transactions; (2) electronic trading facilities; (3) swap transactions; and (4) certain transactions in exempt commodities.

Makes unlawful for any person, other than an eligible contract participant, to enter into a swap unless it is subject to the rules of a board of trade designated as a contract market.

Directs the CFTC to: (1) monitor swap activity and transaction data; and (2) identify specific swap contracts which are required to be cleared.

Prescribes trade execution rules. Revises registration (including voluntary registration) requirements and core principles for derivatives clearing organizations (DCOs). Requires each DCO to designate a compliance officer.

Amends the Legal Certainty for Bank Products Act of 2000 to authorize a federal banking agency to subject to its oversight any identified banking product that is a swap or security-based swap.

Requires the CFTC to make aggregate swap data on swap trading volumes and positions available to the public.

Sets forth registration requirements and standards for: (1) swap repositories; (2) swap dealers and major swap participants; and (3) swap execution facilities.

Requires a swap dealer, futures commission merchant, or DCO by or through which funds or other property are held as margin or collateral to secure the obligations of a counterparty under a swap (which is to be cleared by or through a DCO) to segregate, maintain, and use the funds or other property for the counterparty's benefit. Prescribes a similar assets segregation requirement in the case of a swap that is not submitted to a DCO for clearing (over-the-counter swap).

Amends the CEA to repeal authority for: (1) a board of trade to elect to operate as a registered derivatives transaction execution facility; and (2) exemption from CFTC regulation for certain boards of trade.

Requires the market and mechanism for executing transactions provided by a board of trade designated as a contract market to protect the price discovery process of trading in the board's centralized market.

Authorizes the CFTC to set limits on the aggregate number or amount of positions in contracts based upon the same underlying commodity that may be held by any person, including any group or class of traders, for each month across various specified kinds of contracts, including swap contracts.

Extends CFTC regulatory authority over foreign boards of trade.

Grants the CFTC primary enforcement authority over swap markets regulation.

Amends the Federal Deposit Insurance Act to apply its cease and desist proceedings to specified parties in swap transactions.

Amends the CEA to subject retail commodity transactions to CFTC jurisdiction.

Prescribes reporting and recordkeeping requirements for certain large swap transactions.

Authorizes the CFTC and the SEC to ban swap transactions detrimental to financial market stability.

Directs the SEC, CFTC, the Prudential Regulators, the financial stability regulator, and the Office of Derivatives Supervision to coordinate with foreign regulatory authorities regarding establishment of consistent international standards for the regulation of swaps and information-sharing arrangements.

Authorizes the Secretary of the Treasury to prohibit certain foreign domiciliaries from participating in financial activities in the United States.

Repeals the prohibition against regulation of security-based swaps.

Amends the Securities Exchange Act of 1934 to set forth: (1) a clearing requirement for security-based swaps; (2) requirements for security-based swaps and alternative swap execution facilities; and (3) position limits and position accountability for security-based swaps and large trader reporting.

Requires registration of security-based swap repositories, security-based swap dealers, and major security-based swap participants.

Requires a security-based swap dealer or clearing agency by or through which funds or other property are held as margin or collateral to secure the obligations of a counterparty under a security-based swap (which is to be cleared by or through a derivatives clearing agency) to segregate, maintain, and use the funds or other property for the counterparty's benefit. Prescribes a similar assets segregation requirement in the case of a security-based swap that is not submitted to a derivatives clearing agency for clearing (over-the-counter swap).

Sets forth recordkeeping and reporting requirements for certain security-based swaps.

Amends the Securities Exchange Act of 1933 with respect to security-based swaps.

## **Actions Timeline**

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- **Oct 21, 2009:** Committee Consideration and Mark-up Session Held.
- **Oct 21, 2009:** Ordered to be Reported by Voice Vote.
- **Oct 15, 2009:** Committee Consideration and Mark-up Session Held.
- **Oct 15, 2009:** Ordered to be Reported (Amended) by the Yeas and Nays: 43 - 26.
- **Oct 13, 2009:** Introduced in House
- **Oct 13, 2009:** Referred to House Financial Services
- **Oct 13, 2009:** Referred to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
- **Oct 13, 2009:** Referred to House Agriculture